

1 Mathew K. Higbee, Esq., SBN 11158  
2 Ryan E. Carreon, *pro hac vice*  
2 **HIGBEE & ASSOCIATES**  
3 3110 W Cheyenne Ave #200,  
3 North Las Vegas, NV 89032  
4 (714) 617-8373  
4 (714) 597-6729 facsimile  
5 Email: [mhigbee@higbeeassociates.com](mailto:mhigbee@higbeeassociates.com)  
[rcarreon@higbeeassociates.com](mailto:rcarreon@higbeeassociates.com)

6 Attorney for Plaintiff  
7 ROBERT MILLER

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**  
11 **LAS VEGAS DIVISION**

12 ROBERT MILLER,

13 Plaintiff,

14 v.

15 4INTERNET, LLC; and DOES 1 through  
16 10 inclusive,

17 Defendants.

18 Case No. 2:18-cv-02097-JAD-VCF

19 **DECLARATION OF RYAN E.**  
20 **CARREON**

21  
22  
23  
24  
25  
26  
27  
28

1                   **DECLARATION OF RYAN E. CARREON**

2       I, Ryan E. Carreon, declare as follows:

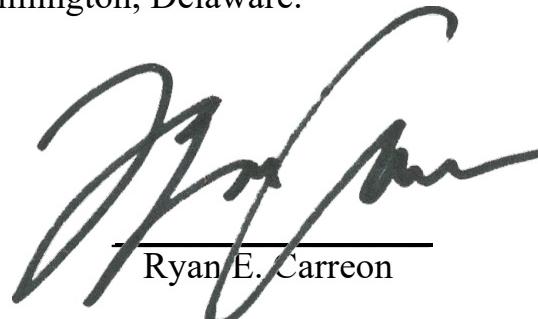
3       1. I am over the age of 18 years old and not a party to this action. I have  
4 personal knowledge of all matters stated herein, and if called as a witness, I could  
5 and would competently testify thereto.

6       2. On Septmeber 24, 2021, I took the deposition of Michael Levy who  
7 testified on behalf of the Defendant, 4Internet, LLC in this action.

8       3. Attached hereto as Exhibit A are true and correct excerpts of that  
9 deposition.

10  
11      I certify under penalty of perjury under the laws of the United States that the  
12 foregoing is true and correct.

13      Executed on July 25, 2022 at Wilmington, Delaware.

14  
15  
16  
17        
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Ryan E. Carreon

# **Exhibit “A”**

# Deposition Transcript

Case Number: 2:18-cv-02097-JAD-VCF  
Date: September 24, 2021

In the matter of:

# Miller v 4internet, LLC

## Michael A. Levy

**CERTIFIED  
COPY**

Reported by:

Angela Campagna  
CCR No. 495

Steno  
Official Reporters

1100 Glendon Ave.  
Suite 1850  
Los Angeles, CA 90024  
[concierge@steno.com](mailto:concierge@steno.com)  
(310) 573-8380



UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

三

4 ROBERT MILLER, )  
5 Plaintiff, )  
6 vs. ) CASE NO.  
7 4 INTERNET, LLC, ) 2:18-cv-02097-JAD-VCF  
8 Defendants. )

10

8

DEPOSITION OF MICHAEL A. LEVY

13

## Taken Remotely

15

16

Friday, September 24, 2021  
7:06 a.m.

17

18

19

20

21

22

23

24

25

Reported by: Angela Campagna, CCR #495

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1 APPEARANCES:

2 For the Plaintiff: RYAN E. CARREON, ESQ.  
3 Higbee & Associates  
4 1504 Brookhollow Drive  
5 Suite 112  
Santa Ana, CA 92705  
Rcarreon@  
Higbeeassociates.com

6

7 For the Defendant: RYAN ISENBERG, ESQ.  
8 Isenberg & Hewitt  
9 6600 Peachtree Dunwoody  
Road  
10 600 Embassy Row  
Suite 150  
Atlanta, GA 30328  
Ryan@ihlaw.us

11

12

Also Present: ELEKTRA KNIGHT  
Steno Technician

13

14

15

16

17

18

19

20

21

22

23

24

25

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1                                  To put this in perspective, back  
2 in the '80s I did some programming on a Cray YP  
3 supercomputer. That was called a supercomputer back  
4 then. Your cell phone is probably 500 times --  
5 easily 500 times more powerful than that  
6 supercomputer from the '80s. That supercomputer  
7 couldn't even run Windows Vista if it had to, much  
8 less Windows 10 or any of the others. I mean, you  
9 just can't beat these -- we're walking around with  
10 supercomputers in our hands. And there is no way  
11 that the chip -- that one little chip inside that  
12 professional camera, that's not even connected to  
13 the internet, can't even get updates, can't even run  
14 sophisticated software, that camera can't beat it.  
15 It's like trying to say that you could outshift, you  
16 know, one of these new computer-operated automatic  
17 transmissions. You can't outshift it. You can't  
18 beat the machine.

19                                  Q. Okay. Let's look at an exhibit. And  
20 this is going to be Exhibit 22.

21                                  (Exhibit 22 marked.)

22 BY MR. CARREON:

23                                  Q. While we're pulling up Exhibit 22, just  
24 to, I guess, put a point in my last line of  
25 questioning, you wouldn't consider yourself an

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1       expert in photography; is that correct?

2           A.    No. I mean, I'm not going to say in  
3       photography. I know a good bit about technology,  
4       though, and -- you know.

5           Q.    Okay.

6           A.    So it's a no. I'm not going to say  
7       that outside of the technology that gets used in  
8       these things that I'm any type of expert.

9       Photography is kind of a broad term.

10          Q.    Okay. Have you seen this document  
11       before, Mr. Levy?

12          A.    Yes.

13          Q.    What is this?

14          A.    I wrote this. This is a witness  
15       report. I didn't realize we were going over this  
16       today. But I guess --

17          Q.    Well, okay. So you submitted one  
18       previously and this is the amended report; is that  
19       correct?

20          A.    Right. I added a little bit in. There  
21       is some more SEC docs that have come out, I think.  
22       It's more, actually, that are coming out. If I had  
23       known we were going over this, I think I might have  
24       grabbed Google's latest SEC reports. Because I  
25       think there's actually some relevant stuff in there.

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1       trillions of photos being taken every year. If they  
2       knew that three-year-olds and two-year-olds -- and  
3       even monkeys, monkeys can take perfectly good  
4       pictures. A monkey stole a cell phone and took  
5       perfect selfies of himself and others. And one of  
6       the attorneys that does the job that you did tried  
7       to sue people for sharing it, stating that the  
8       monkey had the right to copyright or something like  
9       that. And of course you lost. I'm not saying you  
10      personally, but the attorneys lost. It's silly.  
11      There shouldn't be an automatic presumption that  
12      every picture somehow advances society and science,  
13      and that it's all artistic just because you can  
14      develop it. There's no more developing. It's all  
15      digital.

16      **BY MR. CARREON:**

17           Q. Is it your understanding that there is  
18      an automatic presumption of copyrightability in  
19      photographs?

20           A. Yeah. I'm having to fight it. I mean,  
21      I don't believe Robert Miller took pictures of  
22      anything that would have been creative enough or,  
23      you know, that should have ever qualified for a  
24      copyright, but here we are. Because the presumption  
25      -- I've got to prove that it's not instead of him

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1 having to prove that it is. And that's allowing so  
2 many of these just ridiculous lawsuits. You know,  
3 that's -- I don't know if I answered your question  
4 or not. That's kind of my understanding.

5 Q. Sure. I -- okay. That's your  
6 understanding.

7 A. One part of it, I -- you know, I'm  
8 getting tired now. It's the end of the day, so...

9 Q. I'll make sure we can get a decent  
10 dinnertime going here.

11 A. Uh-huh.

12 Q. Why did you prepare this report?

13 A. Because I want to point out what's  
14 going on here. I just feel like I've got a duty.  
15 I'm -- A, obviously I don't like being sued, all  
16 right, and I want to win this lawsuit. But I feel  
17 like I've got a duty to point out this is going on.  
18 That this is ridiculous.

19 You know, I talk a lot about, or  
20 at least mention Mr. Lebowitz in this, the attorney  
21 that was suspended for practicing law because he  
22 filed so many of these lawsuits. And they were --  
23 quite frankly, you know Robert Miller was one of his  
24 clients. And my understanding is that he testified  
25 that he moved on to -- or yeah, he used you and

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1       Mr. Lebowitz, and I think he may have mentioned  
2       another one.

3                   I just felt the need that this  
4       needed to be pointed out, if for no other reason  
5       than to help others. This is an extortion racket.  
6       This is silly. This is burning up the court's time.  
7       You know -- sorry, I got to stand.

8                   Somebody needed to step in and  
9       point it all out. And I'm qualified to do it. I  
10      understand technology real well. I understand all  
11      these issues.

12       Q. And so you felt --

13       A. I'm the perfect person to point  
14      everything out.

15       Q. So you felt like the best way to do  
16      that would be through an expert report?

17       A. I don't know if it's the best way. I  
18      just know that it's one way. But I think somebody  
19      needs to step in as an expert and explain all these  
20      and connect the dots. And, you know, point out that  
21      -- point out everything that I'm pointing out in the  
22      report.

23       Q. And what is the basis of your expertise  
24      to point these things out?

25       A. All my experience. We're going on 35

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1 years or more of collective experience in lots of  
2 different areas. I mean -- you know, I understand  
3 the internet. I understand how also this is being  
4 distributed. And I understand exactly why the New  
5 York Post is being used as the tool. And, you know,  
6 a lot of these things are not obvious unless you  
7 have a lot of different skill sets, and I just  
8 happen to have all of the skill sets. So I'm  
9 writing a report.

10 Q. And so you believe that your skill set  
11 allows you to render an expert opinion on the  
12 copyrightability of photographs?

13 MR. ISENBERG: Object to the form.

14 THE WITNESS: Yes.

15 BY MR. CARREON:

16 Q. Okay. Is there anything else about  
17 this amended expert report that you would like to  
18 state on the record?

19 A. It's ongoing and can be updated. I  
20 didn't know that we were doing the report today.  
21 Could have maybe given you a better answer.

22 Q. That's fine. I was going to ask you,  
23 how long did it take you to prepare this report?

24 A. A long time. I spent weeks writing and  
25 rewriting, doing all the work and gathering up the

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1 documents and tracking everything down. It's a  
2 lengthy report. Took me a very long time.

3 Q. And how much have you spent in attorney  
4 fees defending this case?

5 A. Too much. I don't even know where  
6 we're at. Probably over, you know, 30,000. Maybe  
7 now over 40,000. I don't know. It's just an  
8 incredible amount of money. It's financially  
9 devastating. I feel for all the people that you've  
10 done this to, that have no choice but to be bullied  
11 and extorted. I refuse to be bullied and extorted.  
12 Absolutely refuse.

13 Q. And what leads you to believe that it's  
14 extortion?

15 A. I think everybody can see what's going  
16 on here. I think everybody can see who Mr. Miller  
17 is. We're going to depose the Sadowskis. I think  
18 we know. I think the courts have found out. And I  
19 know the courts are already on to the Sadowskis in  
20 New York. I think they slapped a \$10,000 bond  
21 requirement or something on them because, you know,  
22 guys are a bunch of trolls. I mean, you just file  
23 nuisance lawsuits and strong-arming people, because  
24 you know how complex the copyright law is. And most  
25 people won't stand up. Most people can't stand up.

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1     But I will. I can and I will. I don't have a  
2     choice. I have to. I mean, I can't allow this to  
3     go on. There wouldn't be any search engines anymore  
4     if this is allowed to continue. I certainly will  
5     never be a small search engine. There won't be a  
6     4Internet.

7       Q.    So you don't think search engines can  
8     function without being able to use photographs?

9       A.    Our world is being described in  
10     pictures. Photographs are like words. There was a  
11     time that words were really special. You know,  
12     there were times we carved things on stone tablets.  
13     And printing -- there was no desktop publishing.  
14     And, you know, photographs are the words of today.  
15     They are recording moments in time. And we're all  
16     recording extraordinary numbers of moments in time.

17           And now, if all of those moments  
18     in time, any one of them, can lead to a copyright  
19     lawsuit based on laws from the 1800s, and certainly  
20     pre-digital. This is just -- this is redundant. I  
21     urge you to this stop this. There's one lawyer  
22     that's already been suspended from practicing law.  
23     And I don't know, he may go to jail. You know, you  
24     certainly don't want to be the next one. Mr. Higbee  
25     doesn't want to be the next one. Okay? So this is

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1       ridiculous. It's time to stop it. It's egregious.

2           Q. So you don't think that words or  
3 sentences or anything written can be copyrighted?

4           A. I think definitely, you know, works can  
5 be copyrighted. People copyright books. People  
6 copyright things that aren't easy to do. You know,  
7 things that are special. If I drop my phone and it  
8 takes a picture on its way down to the floor, that's  
9 not special. If I snap a photo of something that is  
10 happening on the street that I did nothing, nothing  
11 to create, just happened to be there and snapped it  
12 along with, you know, a whole bunch of other  
13 pictures, that's not special.

14           Copyrights, that's supposed to be  
15 for things that are -- in my way of looking at it,  
16 things that are special. Things that have raised  
17 themselves to a level that they should be awarded a  
18 copyright. Not just what your clients and the whole  
19 Higbee operation are doing. I think everybody sees  
20 that. Everybody knows it.

21           Q. So you think --

22           A. Congress could have stepped in and  
23 stopped it.

24           Q. So you think that only things that have  
25 a particular amount of effort involved deserve

MICHAEL A. LEVY  
SEPTEMBER 24, 2021

JOB NO. 184375

1 REPORTER'S CERTIFICATE  
2

3 STATE OF NEVADA )  
4 COUNTY OF CLARK ) ss.  
5

I, Angela Campagna, a certified court reporter in Clark County, State of Nevada, do hereby certify:

That I reported the taking of the remote deposition of the witness, MICHAEL A. LEVY, on Friday, September 24, 2021, commencing at the hour of 7:06 a.m.

That prior to being examined, the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true, and accurate transcription of shorthand notes taken down at said time.

I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel involved in said action, nor a person financially interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 8th day of October 2021.

18  
19 *Angela Campagna*  
20 ANGELA CAMPAGNA, CCR #495  
21  
22  
23  
24  
25